Rails-to-Trails
TRUSTEE DISTRIBUTION SHEET

Item: Review Draft of Section 3.2.3 of the EE/CA

Date: September 1, 1998

FILE

Task: 5213-2

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PROJECT DISTRIBUTION SHEET

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Memorandum

TO: See Attached List

CC:

FROM: Mike Cooper - McCulley, Frick & Gilman, Inc.

DATE: September 1, 1998 **PROJECT NO.:** 5213-2

SUBJECT: **Union Pacific Railroad Wallace-Mullan Branch**
Rails-to-Trails Conversion -- Revised Section 3.2.3 of Draft EE/CA

Attached, for your review and comment, is a revised draft of Section 3.2.3 of the Engineering Evaluation / Cost Analysis (EE/CA) for the referenced project. This revised section reflects incorporation of the majority of comments pertaining to ARARs relative to the previous (6/10/98) EE/CA draft received from reviewers. This submittal supplements the August 21 distribution of the draft EE/CA document that incorporated reviewers comments on other sections of the document. A copy of the review comments (including the ARARs section) from each party was also distributed on August 2.

The following is provided as explanation for the attached revisions of Section 3.2.3:

- The ARAR's have been included an a set of Tables similar to those presented in the BHSS ROD.
- Neither location or action specific ARAR's related to hazardous waste or solid waste disposal have been included. The BHSS analysis included these ARARs as components of that remedy included the construction, operation, closure, and/or monitoring of specific disposal facilities. The present scope of the ROW response action does not contemplate the development of a disposal facility as part of the response action. The current proposal contemplates all removals (except for principal threat materials) will be disposed of within the CIA. We understand that this is still an unresolved issue.
- The Tribes comment that Tribal Surface Water Quality regulations be included as ARAR's has not been incorporated into the attached revision. The proposed response action objectives are not directed at improvement or attainment of surface water quality standards. As discussed in the text, standards related to groundwater and surface water are not believed to be ARAR's for the scope of this response action.
- PCB related ARAR's have not been included as there is no reason to believe that PCBs are present in the ROW.
- The SMCRA regulations have not been included as ARARs because the response action along the ROW does not represent a clean-up of mining operations or facilities.

This memorandum and the attached document is complementary to the ongoing negotiations in pursuit of a settlement to the natural resource damages (NRD) claim brought by the federal and tribal trustees against Union Pacific Railroad for alleged impacts in the Coeur d'Alene Basin.

As discussed during our field visit held the week of August 24, 1998 we are anticipating that a review meeting is tentatively scheduled for September 14 and 15 in the Tribes offices in Coeur d'Alene to discuss all comments on the 8/21/98 EE/CA draft as well as the revised ARARs section being distributed

with this memorandum. The purpose of the review meeting will be to perform a page by page review of the EE/CA to resolve any additional comments. This review session is being planned as a final review session. The result of this review session is expected to be a final EE/CA document that is ready for publication as part of the EE/CA public comment process.

It should be noted that the August 21 distribution of the draft EE/CA document did not include the most recent version of the streamlined risk assessment. The latest version of the risk assessment was distributed separately by TerraGraphics Environmental Engineering on August 13, 1998. Accordingly, the August 21 EE/CA distribution by MFG did not attempt to incorporate any review comments on the risk assessment. I suggest that comments on the most recent version of the risk assessment be addressed collectively in the above referenced EE/CA final review meeting.

If you have any questions please do not hesitate to contact Mike Cooper at (303) 447-1823.

3.0 IDENTIFICATION OF RESPONSE ACTION OBJECTIVES

This section establishes the fundamental basis for the selection of response actions to be implemented within the ROW, including: 1) any statutory limits (value or time frame) applicable to implementation of the remedy; 2) the overall scope, goals and objectives of the response actions; and 3) the schedule for implementation of response activities.

3.1 STATUTORY LIMITS

UPRR is the sponsor of the proposed removal action. Thus, the statutory limits (ceiling and duration) for fund-financed removal actions do not apply.

A proposed non-time critical removal action that costs more than $30 million or is more than $10 million and is 50% greater in cost than the least-costly, protective, ARAR-compliant alternative, may trigger review by the EPA National Remedy Review Board (NRRB). If necessary, EPA will ensure that proposed cleanup strategies receive appropriate NRRB review

3.2 SCOPE, GOALS AND OBJECTIVES

3.2.1 Scope of the Remedy

As indicated earlier, the Wallace-Mullan Branch ROW extends approximately 71.5 miles across the panhandle of northern Idaho. The ROW varies in width from 50 feet to 300 feet In addition to the rails, ties, and other track materials (OTM), the railroad infrastructure includes numerous bridges, culverts, miscellaneous loading/unloading structures, and a number of building remnants. There are also a number of areas where adjacent land owners have acquired lease rights or have encroached onto the ROW and have constructed buildings, fences, mine waste facilities and other works unrelated to the railroad

Consideration of response actions under this EE/CA is limited to the main line and related siding areas of the Wallace-Mullan Branch, and excludes the 7.9 mile section of ROW within the BHSS, as well as former spurs and branch lines and the non-siding areas of the Wallace Yard outside a 26-foot-wide corridor bracketing the main line. All of the remedies contemplated would be implemented in conjunction with or immediately following the removal (salvage) of the track structure. The alvage of the track structure will not include the removal of bridges or any other structures of potential historic significance

3.2.2 Goals and Objectives of the Response Actions

The objective of the response actions is the protection of human health and the environment, including the minimization of the potential for direct contact and the potential for mobilization of contaminants by wind or water. A second objective of the response action is to assure compliance with all Applicable or Relevant and Appropriate Requirements (ARARs), to the extent practicable. Collateral benefits will include preservation of the integrity of the existing transportation/communication corridor to provide public access to adjacent recreational areas/natural resources and to facilitate other cleanup actions within the Basin.

3 2.3 Compliance with ARARs and Other Criteria

Section 300.415(i) of the National Contingency Plan (NCP), implementing the CERCLA statute, requires that removal actions conducted pursuant to CERCLA section 106 attain ARARs under Federal or State environmental laws or facility siting laws, to the extent practicable. Practicability may be determined in part by the scope of the proposed removal action. Tables 3-1 through 3-6 identify potential ARARs for this response action. Final ARARs will be identified as part of the response action design process. A brief discussion of the potential ARARs is presented below.

The proposed removal actions contemplated in this EE/CA are limited to actions along the Wallace-Mullan Branch main line and related siding areas. Although these actions will reduce the potential for release of hazardous substances from the ROW, they are not intended to directly address potential releases of hazardous substances from portions of the lateral zones of the ROW into wetlands or surface waters. Accordingly, sections 301, 303, and other sections of the Clean Water Act, 33 U.S.C. § 1251 et seq., will not be considered to constitute ARARs for these actions.

Although there will be some attendant benefits to capping certain areas of the ROW and, therefore, reducing hydraulic conductivity and infiltration of rainfall and snow melt, the proposed removal actions are not intended to address groundwater contamination Therefore, the Safe Drinking Water Act, 42 U.S.C. § 300f et seq., will not be considered an ARAR for this action.

The applicability or relevance of RCRA, 42 U.S.C. § 9601 et seq., to this project is also limited. Certain wastes produced through the extraction and beneficiation of minerals have been excluded from RCRA regulation pursuant to RCRA section 3001(b)(3)(A)(ii). Such wastes, known as "Bevill exempt," may include mine tailings with elevated concentrations of lead, zinc, and cadmium along the ROW. Even if mine tailings of concern are not Bevill exempt, they may still be exempt from compliance with Land Disposal Restrictions (LDRs). Compliance with LDRs may be triggered when wastes are moved from one "area of contamination" (AOC) to another. Wastes left in place or consolidated within one AOC are not subject to LDRs. For purposes of this CERCLA response action, the removal and consolidation of mining wastes anywhere within the Coeur d'Alene River Basin may be considered placement within the same AOC. As such, LDRs do not constitute applicable requirements for the removal and consolidation of mining wastes as those activities are contemplated in this EE/CA.

Aside from response actions concerning mining wastes, LDRs may be applicable to any salvage or other response activities concerning rails, ties and other track materials. Compliance with these requirements for non-mining wastes will be assured through a salvage plan under development.

Under the Clean Air Act, 42 U.S.C. § 7401 et seq., and the Idaho Air Pollution Act, §16.01 et seq., there may be, respectively, chemical-specific ARARs for emission of lead and particulates, and action-specific ARARs for control of fugitive dust during remediation.

Requirements that may be most pertinent to track salvage activities and the ROW response actions are those that involve implementation of short-term physical controls to assure that the response actions do not result in unacceptable impacts to the resources adjacent to the ROW. Such physical controls are typically identified by the general term of Best Management Practices

(BMPs), and address issues such as mitigation of sediment erosion and dust generation during salvage, excavation, or other physical activities.

3.3 RESPONSE ACTIVITIES SCHEDULE

As indicated previously, the primary focus of the response action is to address the potential direct contact exposure pathway as well as to mitigate potential environmental impacts that may occur as a result of the salvage of the rails, ties, and OTM. Salvage of the railroad infrastructure will be the first component of the response action. After salvage, it will be undesirable to leave those areas subject to flooding exposed for a substantial length of time, due to the increased potential for mobilization of the ballast materials. Given these considerations, the conceptual schedule for the response action is as follows:

• Start of Track Salvage Operations	March, 1999
• Implementation of removal activities	May, 1999
• Implementation of Flood Damage Repair to ROW	July, 1999
• Placement of Barriers in Lower Basin	July, 1999
• Placement of Barriers in Upper Basin	May, 2000
• Installation of Trail Amenities	May, 2000
• Completion of Response Action	September, 2000

The actual timing of implementation of the response action will depend upon successful completion of negotiations toward a settlement of the Natural Resource Damage claims of the federal, state and Tribal trustees, and EPA's and the State's CERCLA claims. Implementation of the response action is also dependent upon obtaining all necessary approvals from the Surface Transportation Board (STB) for removal and salvage of the existing track infrastructure. The above schedule is also subject to weather and/or other similar unforseeable delays.

TABLE 3-1
POTENTIAL FEDERAL CHEMICAL-SPECIFIC ARARs

Chemical-Specific	Citation	Prerequisite	Requirement	Location
I. Air				
A Applicable Requirement				
1. Clean Air Act National Ambient Air Quality Standards (NAAQS)	42 U.S.C. Section 7401 et seq; 40 CFR Part 50	Establishes ambient air quality standards for emissions of chemicals and particulate matter.	Emissions of particulates and chemicals which occur during response activities will meet the applicable NAAQS which are as follows. Particulate Matter: 150 $\mu g/m^3$ 24-hour average concentration, 50 $\mu g/m^3$ annual arithmetic mean. Lead: 1.5 μg Pb/m^3 (.5 μg Pb/m^3 is proposed)	Site Wide
B. Relevant and Appropriate Requirement	None			
C To Be Considered Materials	None			
II. Tailings and Ballast				
A Applicable Requirements	None			
B. Relevant and Appropriate Requirement	None			
C. To Be Considered Materials				
1. Risk Assessment Data Evaluation Report (RADER) for the Non-populated Areas of the Bunker Hill Superfund Site	Technical Enforcement Contract Work Assignment C10002 Prepared by Jacobs Engineering Group, Inc and TerraGraphics, Inc.	Evaluates baseline health risk due to current site exposures and establishes contaminant levels in environmental media at the Site for the protection of public health.	The ARARs for soils may not provide adequate protection to human health; therefore a risk assessment approach using these guidances should be used in determining cleanup levels	Site Wide
2. U.S. EPA Interim Guidance Concerning Soil Lead Cleanup Levels at Superfund Sites	Office of Solid Waste and Emergency Response (OSWER) Directive #9355.4-02, September 1989	Establishes an interim soil cleanup level for total lead in residential settings.	This guidance adopts the recommendation contained in the 1985 CDC statement on childhood lead poisoning (an interim soil cleanup level for residential settings of 500-1,000 ppm total lead), and is to be followed when the current or predicted land use of contaminated areas is residential.	Site Wide

TABLE 3-1 (continued)
POTENTIAL FEDERAL CHEMICAL-SPECIFIC ARARs

Chemical-Specific	Citation	Prerequisite	Requirement	Location
3 U.S. EPA Strategy for Reducing Lead Exposures	Environmental Protection Agency October 31, 1990	Presents a strategy to reduce lead exposure, particularly to young children.	The strategy was developed to reduce lead exposures to the greatest extent possible. Goals of the strategy are to: 1) significantly reduce blood lead incidence above 10 μg Pb/dl in children; and 2) reduce the amount of lead introduced into the environment.	Site Wide
4. Amendment to 1992 ROD for BHSS, Non-Populated Areas	Declaration of Chuck Clarke, September 9, 1996	Presence of contaminants in soils in concentration constituting principal threat materials.	ROD Amendment allows containment instead of stabilization as remedy for PTM.	Length of ROW
III. Groundwater				
A. Applicable Requirement	None			
B. Relevant and Appropriate Requirement	None			
C. To Be Considered	None			
IV. Surface Water				
A. Applicable Requirement	None			
B. Relevant and Appropriate Requirement	None			
C. To Be Considered	None			
V. Demolition Debris				
A. Applicable Requirement	None			
B. Relevant and Appropriate Requirement	None			
C To Be Considered	None			

TABLE 3-2
POTENTIAL FEDERAL LOCATION-SPECIFIC ARARs

Location-Specific	Citation	Prerequisite	Requirement	Location
A. Applicable Requirement				
1. Historic project owned or controlled by a Federal Agency	National Historic Preservation Act; 16 U.S.C. 470 et seq; 40 CFR 6 301(b); 36 CFR Part 800.	Property within areas of the Site is included in or eligible for the National Register of Historic Places.	The response action will be designed to minimize the effect on any historic landmarks.	Site Wide
2. Site within an area where action may cause irreparable harm, loss, or destruction of artifacts	Archeological and Historic Preservation Act; 15 U.S.C. 469; 40 CFR 6.301(c).	Property within area of the Site contains historical and archeological data.	The response action will be designed to minimize the effect on any historical and archeological data.	Site Wide
3. Site located in area of critical habitat upon which endangered or threatened species depend.	Endangered Species Act of 1973; 15 U.S.C 1531-1543; 40 CFR part 17, 401; 40 CFR 6.302(b). Federal Migratory Bird Act; 16 U.S.C. 703-712.	Determination of presence of endangered or threatened species.	The response action will be designed to conserve endangered or threatened species and their habitat, including consultation with the Department of Interior if such areas are affected.	Site Wide
4. Site located within a floodplain	Protection of Floodplains, Executive Order 11988; 40 CFR 6, Appendix A.	Response action will take place within a 100-year floodplain.	The response action will be designed to avoid adversely impacting the floodplain wherever possible to ensure that the action's planning and budget reflects consideration of the flood hazards and floodplain management.	Length of ROW
5. Wetlands located in and around the site.	Protection of Wetlands; Executive Order 11990; 40 CFR 6, Appendix A.	Response actions may affect wetlands.	The response action will be designed to avoid adversely impacting wetlands wherever possible, including minimizing wetlands destruction and preserving wetland values.	Length of ROW
5a. Structures in waterways	River Harbors Act 33 CFR §320-330	Placement of structures in waterways is restricted to pre-approval of Corps of Engineers	The response action will comply with these requirements.	Length of ROW

TABLE 3-2 (continued)
POTENTIAL FEDERAL LOCATION-SPECIFIC ARARs

Location-Specific	Citation	Prerequisite	Requirement	Location
6. Waters in and around the Site.	Clean Water Act (Section 404) - Dredge or Fill Requirements, 33 U.S.C. 1251-1376; 40 CFR 230, 231	Capping, dike stabilization, construction of berms and levees, and disposal of contaminated soil, waste material or dredged material are examples of activities that may involve a discharge of dredged or fill material.	The four conditions that must be satisfied before dredge or fill is an allowable alternative are: - There must be no practical alternative - Discharge of dredged or fill material must not cause a violation of State water quality standards, violate any applicable toxic effluent standards, jeopardize threatened or endangered species, or injure a marine sanctuary. - No discharge shall be permitted that will cause or contribute to significant degradation of the water. - Appropriate steps to minimize adverse effects must be taken.	Site Wide
7. Area containing fish and wildlife habitat.	Fish and Wildlife Conservation Act of 1980; 16 U.S.C 2901; 50 CFR Part 83. Fish and Wildlife Conservation Act, 16 U.S C §661 et seq Federal Migratory Bird Act, 16 U.S.C. 703	Activity affecting wildlife and non-game fish.	Response action will conserve and promote conservation of non-game fish and wildlife and their habitats.	Site Wide
B. Relevant and Appropriate Requirement	None			
C. To Be Considered Central Impoundment Area (CIA)	Memorandum from Michael F. Gearheard; December 7, 1997	Disposal of waste in CIA	Disposal must meet technical and non-technical critical set out in memo, and be coordinated with affected communities.	CIA, surrounding communities

TABLE 3-3
POTENTIAL FEDERAL ACTION-SPECIFIC ARARs

Location-Specific	Citation	Prerequisite	Requirement	Location
A. Applicable Requirement	None			
B. Relevant and Appropriate Requirement				
1. Threshold Limit Values (TLVs)	Established by American Conference of Governmental Industrial Hygienists (ACGIH)	Releases of airborne contaminants during response activities.	TLVs are based on the time weighted average (TWA) exposure to an airborne contaminant over an 8-hour work day or a 40-hour work week. Identify levels of airborne contaminants with which health risks may be associated. Since there are no ARARs for several of the contaminants of concern - arsenic, antimony, copper, cadmium, mercury, zinc - the TLVs should be considered ARARs for airborne emission of such chemical TLVs for the contaminants of concern as follows: Lead 150 $\mu g/m^3$	Site Wide
C. To Be Considered	None			

TABLE 3-4
POTENTIAL STATE OF IDAHO CHEMICAL-SPECIFIC ARARs

Location-Specific	Citation	Prerequisite	Requirement	Location
I. Air				
A. Applicable Requirement				
1. Toxic Substances	IDAPA §16.01.1011, 01	Emission of air contaminants that are toxic to human health, animal life, or vegetation	Emissions of air contaminants which occur during remedial activities will not be in such quantities or concentrations with other contaminants, injure or unreasonably affect human health, animal life or vegetation.	Site Wide
B. Relevant and Appropriate	None			
C. To Be Considered	None			
II. Tailings and Ballast	None			

TABLE 3-5
POTENTIAL STATE OF IDAHO LOCATION-SPECIFIC ARARs

Location-Specific	Citation	Prerequisite	Requirement	Location
A. Applicable Requirement				
1. Areas Adjacent to or in the Vicinity of State Waters	IDAPA §16.01.2800	Storage or disposal of hazardous or deleterious materials in the vicinity of, or adjacent to, state waters.	The response action will be designed with adequate measures and controls to ensure stored or disposed contaminated soils will not enter state waters as a result of high water, precipitation, runoff, wind, facility failure, accidents or third-party activities	Site Wide
2. Preservation of Historic Sites	I.C. §67-4601 to 4619	Property within areas of the Site is included in the National Register of Historic places	The response action will be designed to minimize the effect on historic landmarks.	Site Wide
B. Relevant and Appropriate				
1. Endangered Species	I.C. §36-201	Determination of presence of endangered or threatened species.	Response action will be designed to conserve endangered or threatened species, and their habitat.	Site Wide

TABLE 3-6
POTENTIAL STATE OF IDAHO ACTION-SPECIFIC ARARs

Location-Specific	Citation	Prerequisite	Requirement	Location
A. Applicable Requirement				
1. Generation of Fugitive Dust	IDAPA §16 01.1251 - 16.01.1252	Emission of airborne particulate matter.	The response action will be designed to take all reasonable precautions to prevent particulate matter from becoming airborne including but not limited to, as appropriate, the use of water or chemicals as dust suppressants, the covering of trucks and the prompt removal and handling of excavated materials.	
2 Management of Solid Waste	IDAPA §§16.01.5000 et seq.	Management of solid waste including storage, collection, transfer, transport, processing, separation, treatment and disposal	The response action will be designed to management solid waste to prevent health hazards, public nuisances and pollution to the environment in accordance with the applicable solid waste management requirements. No permit is required for onsite actions.	
3. Activities Generating Non-point Discharges to Surface Waters	IDAPA §§16.01.2050, 06 and 16.01.2300,04	Construction and other activities which may lead to non-point source discharges to surface waters.	The response action will be designed to utilize best management practices or knowledgeable and reasonable efforts in construction activities to minimize adverse water quality impacts and provide full protection or maintenance of beneficial uses of surface waters.	
B. Relevant and Appropriate	None			
C. To Be Considered	None			